

REMARKS/ARGUMENTS

Claims 1-3, 5-13 and 15-21 remain pending in the application. Applicants amended independent Claims 1, 13 and 21 for consideration by the Examiner. Support for these amendments can be found in the specification at page 2, lines 28-29; page 4, lines 15-17; page 5, lines 31-32 to page 6, lines 1-2, and Figures 1 and 2. No new matter has been added.

EXAMINER'S REJECTIONS:

In the final office action, the Examiner rejected all of the pending claims as set forth below:

Claims 1-3 and 5-6 and 8-13 and 15-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson 3122401 which discloses all the claimed elements including:

(Re: cl 1, 13) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (c4 L 31-71);

a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (c6 L 34-64);

wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being vertically staggered with respect to storage locations of another one of trays (tray compartments at differing vertical heights in figs 1 & 3),

a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening (c4 L 62-72);

and an indexing assembly connected to door member and to rotator assembly indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening

when door member is moved from the closed position to the open position (c8 L 18-36; cl L 64-70);

wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being angularly displaced with respect to storage locations of another one of trays (c5 L 55-75);

(Re: cl 13) propane tank accessible (c6 L 9-63);

(Re: cl 2) including a locking mechanism attached to door member and enclosure and being operable to lock and unlock door member (c4 L 62-72);

(Re: cl 3)(2) wherein the locking mechanism is token-operated (c4 L 62-72);

(Re: cl 5, 15) wherein storage locations are each sized to retain a single standard-sized propane tank in an upright position (c6 L 9-63);

(Re: cl 6, 16) wherein adjacent ones of storage locations are separated by dividers 112 (fig 4);

(Re: cl 8, 16) wherein rotator assembly includes a stop mounted at each of storage locations at a periphery of rotator assembly (c9 L 56-c 10 L 54);

(Re: cl 9,17,22) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (c9 L 56-c10 L 54);

(Re: cl 10, 18)(9) wherein rotator assembly has a plurality of apertures formed therein each corresponding to one of storage locations and indexing assembly includes a pin for selectively engaging apertures to prevent rotation of rotator assembly (118 fig 2);

(Re: cl 11, 19)(10) wherein rotator assembly includes a lever arm mounting pin, lever arm being in a normal position with pin engaging one of apertures when door member is in the closed position and lever arm being moved by engagement with first arm to a released position disengaging pin from one of apertures (c9 L 56-c10 L 54);

(Re: cl 12, 20)(9) wherein rotator assembly includes a plurality of projections, second arm engaging one of projections during an opening of door member to rotate rotator assembly (c8 L 19-42);

(Re: cl 21) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (c4 L 31-71);

a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (c6 L 34-64);

a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening (c4 L 62-72);

and an indexing assembly connected to door member and to rotator assembly indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (cl L 64-70);

(Re: cl 22) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (c9 L 56-c10 L 54).

Claims 1-3, 5-13 and 15-22 are rejected under 35 U.S.C. 102(b) as being anticipated by, or in the alternative as ob Johnson 3122401 which discloses all the claimed elements including:

(Re: cl 7)(6) wherein dividers each include a horizontal beam extending from an upper portion of vertical bean radially inwardly (112 fig 2) and suggests a vertical beam adjacent a periphery of rotator assembly (112a fig 2).

A rod is suggestive of being a subset of being beam or a recognized equivalent of a beam. It would have been obvious for Johnson to substitute rod with a beam as an easily fabricated structural and functional equivalent and come up with the instant invention.

Claims 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Bjornson 1885324 which discloses all the claimed elements including:

(Re: cl 21) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (p3 L 47-60);
a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (p3 L 61-74);
a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening; and an indexing assembly connected to door member and to rotator assembly (p3 L 47-60),
indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (p3 L 47-60) (Re: cl 22) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (pl L 50-100).

Claims 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Reichle et al., USPN 4621746, which discloses all the claimed elements including:

(Re: cl 21) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (c 3 L 29-43);
a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (c3 L 51-68);
a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening; and an indexing assembly connected to door member and to rotator assembly (c3 L 51-68);
indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door

opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (c4 L 58-c5 L 8);

(Re: cl 22) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (c4 L 30-68).

Claim(s) 1-3, 5-13, 15-22 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Bjornson 1885324 in view of Wittenborg 4498603 wherein the former discloses the elements previously discussed and further discloses:

(Re: cl 1, 13) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (p3 L 47-60);

a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (p3 L 61-74);

a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening; and an indexing assembly connected to door member and to rotator assembly (p3 L 47-60);

indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (p3 L 47-60);

(Re: cl 13) propane tank accessible;

(Re: cl 2) including a locking mechanism attached to door member and enclosure and being operable to lock and unlock door member (p1 L 50-100);

(Re: cl 3)(2) wherein the locking mechanism is token-operated (p3 L 27-43);

(Re: cl 5, 15) wherein storage locations are each sized to retain a single standard-sized propane tank in an upright position (p1 L 36-49);

(Re: cl 6, 16) wherein adjacent ones of storage locations are separated by dividers (4 fig 4);

(Re: cl 8) wherein rotator assembly includes a stop mounted at each of storage locations at a periphery of rotator assembly (cl L 50-100);

(Re: cl 9, 17) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (pl L 50-100);

(Re: cl 10, 1)(9) wherein rotator assembly has a plurality of apertures formed therein each corresponding to one of storage locations and indexing assembly includes a pin for selectively engaging apertures to prevent rotation of rotator assembly (pl L 50-100) (Re: cl 11,19)(10) wherein rotator assembly includes a lever arm mounting pin, lever arm being in a normal position with pin engaging one of apertures when door member is in the closed position and lever arm being moved by engagement with first arm to a released position disengaging pin from one of apertures (pl L 50-100); (Re: cl 12, 20)(9) wherein rotator assembly includes a plurality of projections (fig 2), second arm engaging one of projections during an opening of door member to rotate rotator assembly (P2 L 1-48).

the latter discloses any elements not inherently taught by the former including:

(Re: cl 1,13) wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being angularly displaced with respect to storage locations of another one of trays (3 fig 1);

(Re: cl 7)(6) wherein dividers each include a vertical beam adjacent a periphery of rotator assembly and a horizontal beam extending from an upper portion of vertical beam radially inwardly (11,14 fig 3).

It would have been obvious for Bjornson to modify the divider structure to increase the divider strength and secure the cylinders against jostling as taught by Wittenborg and come up with the instant invention. It would have been obvious for Bjornson to stack a plurality of trays to increase capacity and provide customers variety in products purchased as taught by Wittenborg and come up with the instant invention.

Claim(s) 1-3, 5-13, 15-22 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over by Reichle et al. 4621746 in view of Wittenborg 4498603 wherein the former discloses the elements previously discussed and further discloses:

(Re: cl 1) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (c 3 L 29-43);

a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (c3 L 51-68);

a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening; and an indexing assembly connected to door member and to rotator assembly (c3 L 51-68);

indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (c5 L 30-35; c4 L 58-c5 L 8);

(Re: cl 2) including a locking mechanism attached to door member and enclosure and being operable to lock and unlock door member (c4 L 58-c5 L 8);

(Re: cl 3)(2) wherein the locking mechanism is token-operated (c4 L 58-c5 L 8) (Re: cl 5) wherein storage locations are each sized to retain a single standard-sized propane tank in an upright position (c3 L 1-3);

(Re: cl 6) wherein adjacent ones of storage locations are separated by dividers (c3 L 1-3; c4 L 1 L 14);

(Re: cl 8) wherein rotator assembly includes a stop mounted at each of storage locations at a periphery of rotator assembly (23);

(Re: cl 9) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (c4 L 30-68);

(Re: cl 10)(9) wherein rotator assembly has a plurality of apertures formed therein each corresponding to one of storage locations and indexing assembly includes a pin

for selectively engaging apertures to prevent rotation of rotator assembly (c3 L 61-68) (Re: cl 11)(10) wherein rotator assembly includes a lever arm mounting pin, lever arm being in a normal position with pin engaging one of apertures when door member is in the closed position and lever arm being moved by engagement with first arm to a released position disengaging pin from one of apertures (c4 L 21-68).

and the latter discloses any the elements not inherently taught by the former including:

wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being vertically staggered with respect to storage locations of another one of trays (3 fig 1, tray compartments at differing vertical heights in figs 1 & 3;

(Re: cl 7)(6) wherein dividers each include a vertical beam adjacent a periphery of rotator assembly and a horizontal beam extending from an upper portion of vertical beam radially inwardly (11,14 fig 3).

It would have been obvious for Reichle et al. to modify the divider structure to increase the divider strength and secure the cylinders against jostling as taught by Wittenborg and come up with the instant invention. It would have been obvious for Reichle et al. to vertically stagger the storage compartments with a plurality of trays to increase capacity and provide customers variety in products purchased as taught by Wittenborg and come up with the instant invention.

Claim(s) 1-3, 5-13, 15-22 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson 3122401 in view of Wittenborg 4498603 wherein the former discloses the elements previously discussed and the latter discloses any elements not inherently taught by the former including:

(Re: cl 7)(6) wherein dividers each include a vertical beam adjacent a periphery of rotator assembly (11 fig 3).

It would have been obvious for Johnson to substitute the vertical rods with beams to simplify fabrication as taught by Wittenborg and come up with the instant invention.

Response to Amendments/Arguments

Applicant's amendment was effective in overcoming the previous anticipatory rejections evidenced by Bjornson and Reichle et al.

The applicant's arguments have been fully considered but they are unpersuasive in overcoming the rejections evidenced by Johnson. Johnson has a plurality of trays with compartments, the compartments and trays staggered to differing heights.

That Johnson's has an anti-pilfer device is not relevant to whether the claims read on the prior art. Patents are granted premised upon what the applicant brings to the art, not what the applicant omits. Johnson indexes the doors with the opening of the door (c8 L 18-36) as well as the closing of the door.

Applicant asserts his device accepts return of used cylinders. However, there is no return cylinder structure in applicant's claim that presents such a distinction from Johnson. Patents are granted based upon the claimed features distinguishable over the prior art rather than unclaimed features disclosed but unclaimed.

Wittenborg has a plurality of trays with compartments, the compartments and trays staggered to differing heights. There is no return cylinder structure in applicant's claim that presents such a distinction from Johnson.

Bjornson explicitly states opening the door rotates the turntable into registration-registration is an indexing. The lever in Reichle et al. opens the door and rotates the turntable together.

REMARKS/ARGUMENTS:

Applicants amended independent Claims 1, 13 and 21 to more clearly set forth that the staggered storage locations are in reference to the location of a row of storage locations relative to the row above and below it. That is, the storage locations are preferably identical in size and large enough to hold a propane tank. However, unlike the prior art cited by the Examiner, each row of storage tanks is staggered such that the storage locations of the rows

are offset so as not to line up with the row above or below. This staggering of rows allows a user to access a solitary storage location only. The user may remove or place no more than one propane tank from the solitary storage location provided by Applicants' novel indexing assembly.

This is in sharp contrast to the prior art cited by the Examiner. While this art may disclose various sized storage locations which the Examiner cites as staggered to differing heights, none teach or disclose the staggering of the rows of storage locations relative to the row above and below as is now more clearly set forth in the amended claims.

Applicants respectfully submit that Claims 1, 13 and 21 are patentable over the cited art. Remaining Claims 2-3, 5-12, 15-19 and 21 depend from these claims and are, therefore, also allowable.

The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled in view of the prior art.

By amending the application, Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants intend to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

CONCLUSION

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicants request that the Examiner contact the undersigned at (248) 960-2100.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge our Deposit Account No. 50-3156 for any fee which may be due.